Disposal of appeal by officer who passed original order.

24. If the officer to whom an appeal is presented under this Act in the capacity of District Collector or Collector happens to be the officer who passed the decision which is appealed against in another capacity, he shall report the fact to the Board of Revenue or to the District Collector, as the case may be, and the appeal shall be disposed of by the said Board or District Collector and the order passed on appeal shall be final.

Certain provisions of Limitation Act to apply.

25. The provisions of sections 5 and 12 of the Indian Limitation Act, 1877[1], so far as they relate to suits, appeals and applications, shall *mutatis mutandis*, apply to suits, appeals, or applications for the execution of decrees or orders, instituted, preferred or made under this Act. Central Act XV of 1877.

Power of Government to place village watchman under police authorities.

26. The Government may declare that the powers of punishing village officers which are vested in the Collector by this Act and by the Madras Proprietary Estates' Village Service Act, 1894, shall be exercised in any specified local area by the District Superintendent or Assistant Superintendent of Police in respect of all, or any of, the village watchmen or police-officers in that local area. From every order fining, suspending, dismissing or removing a village watchman or police-officer passed by a District Superintendent or Assistant Superintendent of Police by virtue of a declaration made under this section, an appeal shall lie, within one month, to the District Magistrate, whose decision shall be final. Madras Act II of 1894.

MADRAS ACT No. III OF 1896.[2]

[THE MALABAR LAND REGISTRATION ACT, 1895.]

[31*st March* 1896.]

An Act to make better provision for the registration of proprietors of estates subject to the payment of revenue direct to Government in Malabar and the Wynaad.

Preamble.

WHEREAS Regulation XXVI of 1802 provides that landed property paying revenue to Government shall be registered by the Collector; and whereas such landed property in Malabar and the Wynaad has in many cases not been registered

[1] *See* now the Indian Limitation Act, 1908 (Central Act IX of 1908).

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 15th October 1895, p. 3; for Report of the Select Committee, *see ibid*, dated 19th November 1895, p. 1; for Proceedings in Council, *see ibid*, dated 3rd December 1895, p. 7 and *ibid*, dated 7th January 1896, p. 9.

in the names of the proprietors thereof; and whereas it is desirable for the security of the public revenue to provide a summary means whereby the Collector may ascertain such proprietors; It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Malabar Land Registration Act, 1895.

Extent.

(2) It extends to the whole of the Malabar district and to that portion of the Nilgiri district which is known as South-East Wynaad.

Interpretation clause.

2. In this Act, unless there is something repugnant in the subject or context,—

"Estate."

"estate" means any land which is subject either now or prospectively to separate assessment to land-revenue payable direct to Government :

"Registered."

"registered" means registered in the public registers maintained by the Collector in accordance with the provisions of Regulation XXVI of 1802.

Proprietor or joint proprietor of an estate may apply for registration within specified time.

3. Within such time as the District Collector may fix as hereinafter provided, any person who is or claims to be the proprietor or joint proprietor of an estate and whose name is not already registered, or any other person having authority to act on his behalf, may make application to the District Collector or to an officer empowered by him to receive such application for registration as proprietor or joint proprietor of the estate.

Collector to fix the date before which proprietor may apply for registration.

4. The District Collector shall fix for each taluk or such other local area as he may deem fit the date before which the proprietors of the estates situated therein may under the last preceding section apply to have their names registered, and may at any time alter any date so fixed :

Proviso.

Provided that such date or altered date shall not be less than two months or more than four months from the date of the publication of the same in the District Gazette.

Publication of date fixed by the Collector.

5. Every date fixed as provided in the last preceding section shall be notified in the Fort St. George and District Gazettes, and by notices to be posted up at the office of the District Collector, at the offices of the Revenue Divisional Officer, District Munsif, Tahsildar, Deputy Tahsildar and Sub-Registrar of Assurances within whose local jurisdiction the local area to which the date applies is situated, and at all police-stations and amshom kachahris within such local area; and shall also be proclaimed by beat of drum within the local area to which the date applies :

Irregularity in publication not to affect validity of proceedings

Provided that no irregularity or omission in the publication of the notices or in the proclamations referred to in this section shall affect the validity of any proceedings under this Act.

Collector to ascertain by summary inquiry the person to be registered.

6. As soon as conveniently may be after the date so fixed, the Collector shall, on a day and at a place to be previously notified in the District Gazette whether or not an application for registration under the preceding sections has been made, and whether or not there is any dispute as to the entry to be made in the register, ascertain and determine by such summary inquiry as he thinks fit, in respect of every estate to which the date applies, the person who, in his opinion, is entitled to be registered as proprietor thereof and shall register him accordingly; and, if any such estate shall not previously have been separately surveyed or demarcated, may cause it to be so surveyed or demarcated, or both.

Collector empowered to cause survey and demarcation of estate.

Registration in the case of estates belonging to joint proprietors or to a religious or charitable foundation.

7. In the case of an estate belonging to joint proprietors who are members of a joint family or to a religious or charitable foundation, the estate shall be registered in the name of the managing member for the time being of such family or of the trustee, manager or superintendent for the time being of such foundation, as the case may be, who shall be described in the register as such managing member, trustee, manager or superintendent, and such registration shall be as effectual and valid as if made in the names of all the joint proprietors or of all the persons interested in such foundation.

Procedure in inquiries under section 6.

8. In any inquiry under section 6 the Collector shall hear any party to a dispute who attends on the day notified or on the day to which the inquiry may be adjourned, and shall receive such evidence as he may see fit; and in the case of a dispute he shall record the nature of the dispute, his decision thereon, the grounds of the decision and such other particulars as he thinks fit.

Notice of the registration to be given in certain cases.

9. (1) If the person registered under section 6 or section 7 has not made an application under section 3, the Collector shall give him notice of the registration by the publication of the fact in the District Gazette and also, if his address is known, by letter sent by post registered.

Procedure when the person registered objects to the registration on receipt of such notice.

(2) If any person to whom notice has been given under this section objects to such registration, he may apply to the Collector within two months of the date of the publication of such notice in the District Gazette or within one month of the receipt of the registered letter containing such notice, whichever is later, to have his name removed from the register, and the Collector shall thereupon consider his objections and shall either remove his name from the register or direct its retention therein as he may see fit; in the former case the Collector shall proceed under section 6 as if no such registration had been made.

Registration subject to revision by Collector and modification by Civil Court.

10. Every registration purporting to be made in accordance with the procedure prescribed by this Act—

(i) may be revised by the Collector on application made within three months, and

(ii) shall be subject to any decree or order which may be passed by any Civil Court of competent jurisdiction : Provided that in any suit to set aside or modify such registration or in any appeal in such suit, in which suit or appeal an order or decree is passed *ex parte* against the [1][Government] or against the Collector, neither the [2][Government] nor the Collector shall be made liable in costs.

Collector to furnish copies of the record on payment of fees.

11. On payment of the prescribed fees, the Collector shall furnish to any person who may apply for the same copies of the record of every inquiry held under this Act and of every order and entry made thereunder or under Regulation XXVI of 1802.

Saving of certain provisions of Regulation XXVI of 1802.

12. Nothing in this Act shall be deemed to affect the provisions of Regulation XXVI of 1802 in respect of the mutation in the register kept by the Collector under that Regulation of the name of the proprietor registered in accordance with the provisions of this Act when a transfer of the proprietary interest in any estate takes place, whether by purchase, inheritance, gift or otherwise.

Registered proprietor to be deemed the land-holder for the purposes of Madras Revenue Recovery Act.

13. Every person registered as proprietor of an estate shall be deemed to be the landholder in respect of such estate within the meaning and for the purposes of the Madras Revenue Recovery Act II of 1864, and no proceedings taken under the said Act against such person or against any land registered in his name shall be deemed invalid or ineffectual by reason of any error in such registration or on the ground that such person was not the real or sole proprietor.

Joint registration of occupants and proprietors permissible in certain cases.

[3][**14.** Notwithstanding anything contained in this Act or in Regulation XXVI of 1802, the Collector may, on the application of the registered proprietor of an estate or of any person entitled to occupy such estate, register as occupant jointly with such proprietor (i) any person who is entitled by virtue of any contract with the proprietor or his predecessor in title to occupy such estate or (ii) any person who is bound by a contract with the proprietor or his predecessor in title to pay to Government the land revenue assessment on such estate. Provided that before ordering joint registration as aforesaid the Collector shall give notice to the proprietor or to the person entitled to occupy, as the case may be, and

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[1] The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[2] The word "Crown" was substituted for the words "said Secretary of State in Council" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[3] Section 14 was substituted for the original section by section 2 of the Malabar Land Registration (Amendment) Act, 1920 (Madras Act I of 1920).

consider his objections. [1](Every joint registration made under this section shall remain in force so long as the occupancy continues.)]

Recovery of arrear of revenue from occupants jointly registered with proprietors.

15. In every case in which an occupant of an estate has been registered under the last preceding section and an arrear of revenue has accrued due in respect of such estate subsequent to such registration, the Collector may take proceedings in the first instance against such occupant under the provisions of the Madras Revenue Recovery Act II of 1864, in so far as they relate to the seizure, attachment and sale of movable property or of the crops or ungathered products of land on which an arrear is due :

Provisos.

Provided that nothing herein contained shall debar the proprietor from recovering by suit from such occupant the arrear of revenue or portion thereof which, owing to the default of such occupant, has been paid by, or recovered from him :

Provided further that nothing contained in this section shall be deemed to affect the power of the Collector to recover from the registered proprietor of such estate under any or all of the provisions of the said Act any arrear of revenue which may be due on such estate or on any other estate registered in the name of such proprietor.

Jurisdiction of Civil Courts barred.

16. Except as otherwise provided by this Act, no Civil Court shall have jurisdiction in any matter which the Collector is empowered by or under this Act to dispose of or shall take cognizance of the manner in which the Collector exercises any powers vested in him by or under this Act.

Payment of costs.

17. All costs of any inquiry or proceeding held before, or any survey or demarcation directed by, the Collector under this Act shall be payable by the parties concerned, and the Collector may pass such orders as he shall think fit in respect of the payment of such costs ; and in the event of such costs not being paid on demand may recover the amount thereof in the same manner as if it were an arrear of land-revenue, and pay the sum so recovered to the person entitled to receive it.

Order of District Collector final.

18. Notwithstanding anything contained in Regulations I and II of 1803 of the Madras Code, no appeal shall lie to the Board of Revenue from any order made by the District Collector under this Act.

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[1] The words within brackets were substituted for the words "The Collector shall state in his order the period for which such joint registration shall be in force, which period shall not extend beyond the date of the termination of the contract referred to in this section" by section 2 of the Malabar Land Registration (Amendment) Act, 1934 (Madras Act II of 1935).

19. Subject to the provisions of section 13, nothing contained in this Act and nothing done in accordance with this Act shall be deemed to— Saving clause.

(*a*) preclude the Government or any person from bringing a regular suit for possession of, or for a declaration of right to, any immovable property to which the Government or such person may deem itself, or himself, entitled ; or

(*b*) render a registration under this Act an admission on the part of the Government of the right of the person in whose name such estate may be registered or an admission of the validity of the title under which the estate is held ; or

(*c*) affect the rights of the Government or of any person in respect of any estate or of any interest therein.

20. The Board of Revenue may, after previous publication, make subsidiary rules for the carrying out of the purposes of this Act, and may prescribe the fees, if any, to be paid for the service of summonses issued under Madras Act III of 1869[1] in connection with inquiries and proceedings under this Act. The Board of Revenue may make rules.

21. The [2][State Government] may, by notification, suspend the operation of this Act in any specified portion of the districts to which it applies, and may, by subsequent notification, bring it again into operation. Power to suspend operation of Act.

[3][**22.** The [2](State Government) may, by notification, empower any officer to exercise all or any of the powers of a Collector under this Act.]

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[1] The Madras Revenue Summonses Act, 1869.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] Section 22 was added by section 3 of Madras Act I of 1920.